

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BRUNSWICK ACCEPTANCE COMPANY, LLC
and
GE COMMERCIAL
DISTRIBUTION FINANCE CORP.,

Plaintiffs,

-against-

Civil Action No.: 1:07-cv-1186

ANDERSEN BOAT SHOP, INC.,
ALAN ANDERSEN
and
VIRGINIA ANDERSEN

GLS/RFT

Defendant.

ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

UPON reading the Complaint dated November 7, 2007, together with the exhibits annexed thereto, the Affidavits of Brian Walker and Jason Rozga, sworn to the 6th day of November, 2007, the Motion for Order to Show Cause, Temporary Restraining Order, and Order of Seizure of Property, pursuant to Fed. R. Civ. P. 64 and 65, dated November 7, 2007, all submitted in support of an Order to Show Cause why an Order should not be issued herein, pursuant to CPLR §7102, as applicable herein pursuant to Fed. R. Civ. P. 64, directing the United States Marshall or Sheriff of any County within the State of New York where the property may be found, to seize certain property as hereinafter described, and further seeking a Temporary Restraining Order restraining the Defendant, Andersen Boat Shop, Inc., and all persons acting in

concert with Defendant, from dismantling, removing, concealing, using, hiding, selling, disposing of, transferring, encumbering, commingling or permitting to become subject to a security interest or lien or otherwise acting in any manner inconsistent with the Plaintiffs' interest in such property, and due deliberation having been had hereon, and good and sufficient cause having been shown,

NOW, on Motion of Plaintiffs, GE Commercial Distribution Finance Corporation (hereinafter "CDF") and Brunswick Acceptance Company, LLC (hereinafter "BAC" (CDF and BAC collectively "Plaintiffs")), and upon the annexed Affidavits of Brian Walker and Jason Rozga, sworn to the 6th day of November 2007, the Motion for Order to Show Cause, Temporary Restraining Order, and Order of Seizure of Property pursuant to Fed. R. Civ. P. 64 and 65, dated November 7, 2007, the Memorandum of Law dated November 7, 2007, and the Complaint dated November 7, 2007;

LET the Defendant, appear before this Court at a hearing to be held in Courtroom #_____, United States District Court for the Northern District of New York, James T. Foley U.s. Courthouse, 445 Broadway, Albany, NY 12207, on ^{a date to be determined} ~~the ____ day of November 2007, at~~ ~~o'clock in the _____ noon of that day, or as soon thereafter as counsel can be heard,~~ to show cause why an Order should not be made and entered in this action, authorizing the issuance of an Order of Seizure, pursuant to CPLR §7102, made applicable herein pursuant to Fed. R. Civ. P. 64, directing the United States Marshall or Sheriff of any county within the State of New York where the property may be found, to seize from the Defendant, and deliver to Plaintiffs:

- A. inventory, accounts, chattel paper, documents, furniture, equipment, fixtures, general intangibles, contract rights, deposit accounts, certificates of deposit and books, records, disks and tapes;
- B. all accessions, accessories and replacements to or of the foregoing, and ;
- C. all proceeds and products of the foregoing;

(hereinafter collectively referred to as the "Collateral");

AND IT IS FURTHER ORDERED, pursuant to CPLR §7109 and Fed. R. Civ. P. 65(b), that pending the hearing of this Motion, the Defendant and its respective servants, agents, employees, representatives, and all persons acting in concert with it be, and the same hereby are, restrained and enjoined from removing, transferring, dismantling, selling, pledging, encumbering, commingling, using, concealing, hiding or otherwise disposing of, or permitting to become subject to a security interest or lien, the Collateral, including all deposit accounts, described above in any manner inconsistent with Plaintiff's interests therein; and it is further

ORDERED, that Plaintiffs post undertaking in the amount of \$ 800,000, pursuant to the provisions of CPLR §7102(e), upon entry of this Order; and it is further

ORDERED, that a copy of this Order to Show Cause and Temporary Restraining Order, together with the copies of the above-referenced papers upon which it is made, shall be personally served (or attempted to be personally served): (a) upon the Defendant, Andersen Boat Shop, Inc., at Route 50 P.O. Box 46, Burnt Hills, New York, and (b) mailed by Federal Express to counsel for Defendants, Frank Parisi, Esq., 376 Broadway, Schenectady, NY 12305, and that such service shall be deemed good and sufficient notice of this Order; and it is further

ORDERED, that this Order shall take effect upon the service (or attempted service) described in the foregoing paragraph.

Dated: November 9, 2007
Albany, New York

. Gary L. Sharpe
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Hon. Gary L. Sharpe
United States District Judge
Northern District of New York

ENTER :